

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

MIKEAL G. STINE,)	
)	
Plaintiff,)	
)	
vs.)	No. CIV-14-847-C
)	
CHARLES T. WEEKS II, et al.,)	
)	
Defendants.)	

ORDER ADOPTING REPORT AND RECOMMENDATION

This civil rights action brought by a prisoner, proceeding pro se, was referred to United States Magistrate Judge Gary M. Purcell, consistent with the provisions of 28 U.S.C. § 636(b)(1)(B). Judge Purcell entered a Report and Recommendation on August 13, 2014, to which Plaintiff has timely objected. The Court therefore considers the matter de novo.

The facts and law are accurately set out in the Magistrate Judge's Report and Recommendation and there is no purpose to be served in repeating them yet again. With one exception noted below, Plaintiff's Objection merely restates the conclusions and legal argument originally asserted, and raises no issue not fully and accurately addressed and rejected by the Magistrate Judge. The sole exception is Plaintiff's assertion that in August 2014 he was again injured while being transported back to Colorado. This alleged incident is, first, more properly construed as a new injury which would require filing a new action. But even were the Court to consider it as part of the present claim, it is clear from Plaintiff's

Objection that the harm occurred in the past. “[A]llegations of past injury or harm are insufficient.” Fuller v. Wilcox 288 F. App’x 509, 511 (10th Cir. 2008). Plaintiff’s Objection makes clear that he has now returned to his place of incarceration and Plaintiff offers no argument or suggestion that he will, in the immediate future, be transported again. Thus, Plaintiff has failed to allege he faces imminent serious harm. Thus, Plaintiff has failed to make the allegation necessary to avoid the filing restrictions previously imposed on him.

Accordingly, the Court adopts, in its entirety, the Report and Recommendation of the Magistrate Judge, and for the reasons announced therein, Plaintiff’s Application for Leave to Proceed in Forma Pauperis is denied, and the Complaint is dismissed based on Plaintiff’s failure to satisfy the requirements of 28 U.S.C. § 1915(g). A judgment shall enter accordingly.

IT IS SO ORDERED this 16th day of September, 2014.



ROBIN J. CAUTHRON
United States District Judge